REMARKS

Claims 1-36 are the only active claims pending in this application. For purposes of simplifying issues, claim 37 is canceled, without disclaimer of subject matter. The foregoing separate sheets marked as "Listing of Claims" show all the claims in the application, each with an indication at its first line showing the claim's current status.

Applicant respectfully acknowledges, with appreciation, the Office Action's allowance of claims 1-22. Applicant submits only minor typographical form amendments to these claims (e.g., consistency in typographical form of "content"), effecting no material change to the claims' examined, allowed form.

The Office Action rejects claims 23 - 37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,029,045 ("Picco") in view of U.S. Publication No. 2007/0124794 A1 ("Marko"), in view of U.S. Patent No. 5,572,442 ("Shulhof"). Office Action at pp. 2-9.

Applicant respectfully traverses all of these rejections.

Claims 23 and 24

Base claims 23 and 24 recite, in combination with other elements, a repeater receiving a broadcast program content, receiving requests from user video systems for viewing the program content, sending advertising content to the video systems from which the requests are received, measuring the effect of the advertising based on the number of the video systems viewing the advertising, predicting whether or not a predetermined advertisement effect can be met, based on the measured effect, and then conditionally rebroadcasting the program content to the video systems making the request, the condition being the prediction result indicating that the measured advertising effect meets a given target effect.

Applicant has amended claims 23 and 24 for form, to more positively recite the rebroadcasting being conditional on the predicted advertising effect meeting a given target effect.

The Examiner's position in rejecting claims 23 and 24 includes the Examiner's statement that Picco's "Live Feeds (106) in figure 5" shows "generating a prediction whether or not a predetermined advertising effect can be attained within a broadcasting time," and a statement that Picco at column 14, lines 55-57, discloses a conditional rebroadcasting of a stored program content and advertising if the predicting condition is met. Office Action at 4.

Applicant respectfully responds that Picco does not disclose the subject matter identified by the Examiner's statement.

Picco discloses compressing a program received from a central source to a smaller bandwidth, *adding* local content and user-specific content *to the compressed original content*, and sending the combination to the user. In Pico's system, the original content is rebroadcast unconditionally, and is received, unconditionally. The only content that varies from user to user, or receiver to receiver, is the local content and advertising material added to the original broadcast.

Applicant further submits, with all due respect, that Picco's Fig. 5 "live feeds" do not describe, and do not constitute any disclosure, teaching or suggestion, explicitly or inherently, of anything of or toward a prediction of an advertising effect.

Referring to Picco at column 14, lines 55-57, this passage is a teaching of selling generated viewer statistics to third parties, for the third parties to add specific local content to the original program that is sent to the user. This feature of Picco provides for different users to receive different added local content and different added user-specific content, tailored to the demographics indicated by the statistics. However, as Applicant states above, in Picco *all* users receive the same originally broadcast program content. Stated differently, Picco's description at column 14, lines 55-57, *does not* constitute a disclosure, teaching or suggestion of anything within the meaning of the claim 23 and 24 *conditional* rebroadcasting of a stored program content and advertising if a predicting condition is met.

The Examiner's position further includes the Examiner's statement that "Picco fails to teach that a program is rebroadcasted based on popularity," and a

citation to Schulhof at column 11, lines 16-20, as a teaching that a "popular program can be rebroadcasted based on demand. Office Action at 5.

Applicant respectfully responds, first, that 23 and 24 do not recite rebroadcasting a program based on popularity. Applicant's claims 23 and 24 recite measuring broadcasting an advertising content to users, measuring an advertising effect based on the number of such users that make a request to view a program content, predicting an advertising effect based on the measurement, and *conditional* rebroadcasting of a stored program content and advertising if the predicting condition is met.

Applicant will next respectfully describe the subject matter disclosed at Schulhof, at column 11, lines 16-20; the disclose is of placing popular programs in different "bins" than "least popular programs."

Applicant respectfully submits that Schulhof's disclosure at column 11, lines 16-20, of arranging programs in different bins according to popularity, does *not* constitute a disclosure, teaching or suggestion of, or toward, Applicant's claim elements of measuring broadcasting an advertising content to users, measuring an advertising effect based on the number of such users that make a request to view a program content, predicting an advertising effect based on the measurement, and *conditional* rebroadcasting of a stored program content and advertising if the predicting condition is met.

Applicant respectfully requests, for the reasons identified above, that the rejection of claims 23 and 24 be reconsidered and withdrawn.

Claims 27-30

The Examiner's position in rejecting claims 27-30 includes the Examiner's statement that Picco at column 14, lines 55-57, discloses a conditional rebroadcasting of a stored program content and an advertising if the predicting condition is met. Office Action at p. 6.

Applicant respectfully responds that, for the same reasons Applicant submits above in response to the Examiner's position on Picco at column 14, lines 55-57 in

rejecting claims 23 and 24, Picco does not disclose the subject matter identified by the Examiner's statement.

Picco discloses compressing a program received from a central source to a smaller bandwidth, adding local content and user-specific content to the compressed original content, and sending the combination content to the user.

Picco at column 14, lines 55-57 teaches selling generated statistics to third parties, for the third party to add specific local content to the original program that is sent to the user. However, *all* users receive the originally broadcast program content. This *does not* constitute a disclosure, teaching or suggestion of anything within the meaning of the claim 23 and 24 *conditional* rebroadcasting of a stored program content and advertising if a predicting condition is met.

The secondary reference, Marko, adds nothing to Picco with respect to patentability of Applicant's claims 27-30.

First, Marko does not qualify as a prior art reference. Marko has an effective filing date of October 25, 2000, which is approximately six (6) months after the foreign priority date of the present application.

Second, Applicant's specification already states that repeaters *per se* are known. *See* Applicant's specification at p. 2, lines 5-12.

Applicant respectfully requests, for the reasons presented above, that the rejection of claims 27-30 be reconsidered and withdrawn.

Claims 25-26

Claims 25 and 26 depend from claims 23 and 24, respectively. Applicant respectfully submits that claims 25 and 26 are therefore allowable over the combination of Picco, Schulhof and Marko, for at least the reasons Applicant submits above that base claims 23 and 24 are allowable over these references.

Claims 33-36

Claims 33-36 depend from respective claims among claims 27-30 and, therefore, are allowable over the combination of Picco, Schulhof and Marko, for at least the reasons Applicant submits above with respect to base claims 27-20.

Applicant respectfully requests, for at least this reason, that that the rejection of claims 33-36 be reconsidered and withdrawn.

Claims 33-36 further recite, in combination with the patentable combinations recited by claims 27-30, receiving a plurality of program contents, calculating a proper recording time, recording cost, and advertising effect for each, and

> generating a selective storage predicting result, based on the calculated advertisement effect, the calculated recording cost and the calculated proper recording time of each program, indicating which from among the program contents are likely to obtain advertisement effects exceeding their recording costs, and

> conditional storing only the program contents that the selective storage predicting result indicates likely obtaining advertisement effects exceeding their recording costs.

Claims 33-36, currently amended, at lines 14-23

The Examiner's position in rejecting claims 33-36 includes the Examiner's statement that Picco at column 7, lines 6-7, discloses conditional rebroadcasting including comparing the advertising effect to a predetermined target advertising effect, and at column 2, lines 59-67, discloses "storing selectively [i.e., conditionally] only the program contents predicted that" advertisement effects exceed recording costs. Office Action at 7.

Applicant respectfully responds that Picco does not disclose the subject matter identified by the Examiner's statement.

Picco at column 7, lines 6-7, describes identifying which local content will be added to the broadcast program content. This is not subject matter that falls within the meaning of the claim 33-36 element of comparing an advertising effect to a predetermined advertising effect.

Applicant submits that Picco at column 2, lines 59-67, describes targeted advertising, i.e., different local content added to different rebroadcasts of the

original program content. This is not a subject matter falling within the meaning of the claim 33-36 conditional storing of program content.

Claims 31-32

Claims 31 and 32 depend from claims 23 and 24, respectively, and, therefore allowable over the combination of Picco, Schulhof and Marko, for at least the reasons Applicant submits above that base claims 27-20 are allowable over these references. Applicant therefore respectfully requests that the rejection of claims 33-36 be reconsidered and withdrawn.

Claims 31 and 32 further recite, in combination with the patentable combinations recited by claims 23 and 24, selective, or conditional storage elements similar to those recited by claims 33-36. Applicant respectfully submits that Picco lacks disclosure of these conditional storing elements, for the reasons Applicant submits above in response to the rejection of claims 33-36.

Conclusion

In view of the foregoing, Applicant respectfully requests that claims 23 – 36 be allowed, and that the application with claims 1-36 be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,

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